



Appeal Decision

Site visit made on 18 August 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2025

Appeal Ref: APP/D1780/C/24/3338116

Land at 33 Bracken Lane, Southampton SO16 6BA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Miss Sabina Teimurova against an enforcement notice issued by Southampton City Council.
 - The enforcement notice was issued on 11 January 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of decking and supporting structure in the rear garden of the land.
 - The requirements of the notice are: (i) Remove the decking structure in its entirety; and (ii) Remove all resulting materials from the land.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Main Issue

2. The main issue is the effect of the decking on neighbouring living conditions, having particular regard to overlooking.

Reasons

3. The site relates to the rear garden of a ground-floor flat in a predominantly residential area. The deemed planning application relates to the erection of decking and the supporting structure (the decking). I am therefore unable to consider wider proposals for a shed.
4. The appellant has however removed the decking, which has been confirmed by the Council, although it contends that the resulting materials have not been removed from the land. That is however a matter that remains between the main parties. In any event, the appellant has not withdrawn their appeal, and it therefore remains with me for determination.
5. There are also no photographs before me of the decking. In such situations, I must therefore adopt a precautionary approach. Furthermore, a neighbour's evidence is that the decking allowed views inside their flat, as opposed merely just their garden.
6. I therefore appreciate that the upper floor flats look down onto the garden areas and there is therefore some overlooking in this regard. However, the

decking very likely gave rise to overlooking and a loss of privacy to occupiers inside a neighbouring flat. This is because, and as I could see during my site visit, that the decking would have raised the ground level without additional screening and so likely afford views over fences and then through doors/windows to the inside of a neighbouring flat, which thus would result in an unacceptable loss of privacy or perceived loss of privacy.

7. It is said that other properties benefit from decking or have built something in their gardens, but I have little evidence concerning these and whether planning permission has been granted or any unacceptable overlooking arises.
8. I conclude the decking would have been unacceptably harmful to neighbouring living conditions, having particular regard to overlooking, in contravention of saved Policy SDP1 of the adopted City of Southampton Local Plan Review 2nd Revision 2015 (the LP). This policy requires, amongst other things, for development to not unacceptably affect the amenity of citizens. I however do not find conflict with Policies SDP7 and SDP9 of the LP as these relate to design context, massing, scale and appearance and which are matters not directly raised by the Council in issuing the notice.

Formal Decision

9. The appeal is dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR